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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,141	07/09/2001	Naoaki Kataoka	2001-0978	6498

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EXAMINER

BEISNER, WILLIAM H

ART UNIT	PAPER NUMBER
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1744

8

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/900,141

Applicant(s)

KATAOKA ET AL.

Examiner

William H. Beisner

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-- The MAILING DATE of this communication app ars on th cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-20 and 28-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-20 and 28-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-3, 5, 7-20 and 28-40 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Amended claims 1, 13 and 28 include the newly recited claim limitation that the “oxidation reduction potential of the contaminated matter reduced is maintained at not more than -350mV for at least 5 days by adding the reducing agent”.

New claims 36 and 38 include the newly recited claim limitation that the “oxidation reduction potential of the contaminated matter reduced is maintained at not more than +130mV for at least 5 days by adding the reducing agent”.

Applicants’ response filed with this new claim language states that support for the claim amendments and new claims is based on Examples 5-8 of the instant specification.

However, review of these Examples fails to adequately support this claim language. There is nothing shown in these examples which supports the specific language recited above.

Claim Rejections - 35 USC § 103

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3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3, 5, 7-20 and 28-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuring et al.(US 5,908,267).

The reference of Schuring et al. discloses a method for the treatment of contaminated matter which includes contacting the contaminated matter with a treatment agent.

While the reference discloses a number of treating agents which can be contacted the reference does not specifically recited the instantly claimed combination of compounds and treatment steps.

Specifically the reference of Schuring et al. discloses that based on the source of contamination, the dry treatment media can include powdered metals and alloys, organic compounds and compositions which promote growth of microorganisms.

In view of these teachings, it would have been obvious to one of ordinary skill in the art to determine the optimum reagents of those disclosed to treat the contaminated matter based on considerations such as the presence of indigenous microorganisms, the specifics of the contaminants, etc.

With respect to claims 28-35, while the reagent of Schuring et al. is provided in a dry format, it would have been obvious to one of ordinary skill in the art to provide a liquid media when it is not required to treat the contaminated matter in the specific contacting manner disclosed by the reference of Schuring et al..

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With respect to the specific mixing, adding and amounts of reagent specifying in claims 29-35, it would have been obvious to one of ordinary skill in the art to determine the optimum manner in which to contact the treatment composition with the contaminated matter based merely on the source of the specific treatment agents and the environment in which the contaminated matter is to be treated.

With respect to the newly recited limitation with respect to the oxidation reduction potential of the contaminated matter, if not inherently met by the modifications of the reference of Schuring et al., again in the absence of a showing of criticality and/or unexpected results, it would have been obvious to one of ordinary skill in the art to determine the optimum reaction conditions while maintaining the efficiency of the treatment system.

Response to Arguments

5. Applicant's arguments filed 30 May 2002 have been fully considered but they are not persuasive.

With respect to the rejection of the claims over the reference of Schuring et al., Applicants traverse the rejection because of the inefficiencies associated with the method of the reference of Schuring et al. (See pages 12 and 13 of the response).

Applicants' comments are not persuasive because the comments are not commensurate in scope with the instant claim language. The instant claim language does not preclude contacting a powered or dried media with the material to be treated. Some of the instant claims actually recited that the medium is in powered form.

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Applicants also argue that the reference does not disclose a specific range of oxidation reduction potential should be used or that the iron should be used in reduced form.

In response, the reference discloses that reduced iron particles (See column 8, lines 42-45) can be used which would inherently fall within the claimed oxidation reduction potential range. In terms of the fully contacting of the agent and contaminant, the instant claims do not require “fully contacting”. With respect to the maintaining the oxidation potential after contact, if not inherently met by the reference when using an agent of the claimed potential (i.e. reduced iron), it would have been obvious to one of ordinary skill in the art to optimize the conditions so as to maintain the efficiency.

Finally, with respect to applicants’ comments of record concerning complete reduction of the contaminant, review of the instant specification discloses that only certain examples which include fertilizer result in complete elimination of the contaminant to be treated.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Beisner whose telephone number is 703-308-4006. The examiner can normally be reached on Tues. to Fri. and alt. Mon. from 6:40am to 4:10pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


William H. Beisner
Primary Examiner
Art Unit 1744

WHB
July 29, 2002